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CLERK, U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

16-0117

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**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court		District:	Docket or Case No.:
Name (under which you were convicted): <i>William Price</i>		<i>761 of 2002</i>	
Place of Confinement: <i>SCI Albion</i>		Prisoner No.: <i>FP 2118</i>	
Petitioner (include the name under which you were convicted): <i>William Price</i>		Respondent (authorized person having custody of petitioner) v.	
The Attorney General of the State of			

PETITION

- (a) Name and location of court that entered the judgment of conviction you are challenging:
*Fayette County Court 61 East Main Street,
Uniontown, Pa 15401*
- (b) Criminal docket or case number (if you know): *761 of 2002*
- (a) Date of the judgment of conviction (if you know):
- (b) Date of sentencing: *11-10-2003*
- Length of sentence: *11 1/2 to 30 yrs*
- In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No
- Identify all crimes of which you were convicted and sentenced in this case:
*Rape (victim less than 13 years of age)
Incest
Aggravated indecent assault
Corruption of minors*
- (a) What was your plea? (Check one)

<input checked="" type="checkbox"/> (1) Not guilty	<input type="checkbox"/> (3) Nolo contendere (no contest)
<input type="checkbox"/> (2) Guilty	<input type="checkbox"/> (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? _____

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: *Superior Court of Pennsylvania*

(b) Docket or case number (if you know):

(c) Result: *affirmed*

(d) Date of result (if you know):

(e) Citation to the case (if you know):

(f) Grounds raised: *sufficiency of evidence.*

(g) Did you seek further review by a higher state court?

☐ Yes

☒ No

If yes, answer the following: _____

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

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(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes ☒ No

If yes, answer the following: _____

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: *Fayette County Court*
 (2) Docket or case number (if you know): *761 of 2002*
 (3) Date of filing (if you know): *2-21-2006*
 (4) Nature of the proceeding: *post conviction collateral relief Act*
 (5) Grounds raised: *Ineffective Assistance of counsel.*

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No(7) Result: *No Decision was made to date.**2-29-15*

(8) Date of result (if you know): _____

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(b) If you filed any second petition, application, or motion, give the same information:

- (1) Name of court: *Fayette County Court*
- (2) Docket or case number (if you know): *261 of 2002*
- (3) Date of filing (if you know): *4-02-2015*
- (4) Nature of the proceeding: *post conviction collateral Relief Act*
- (5) Grounds raised: *Ineffective Assistance of Counsel*

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: *Denied*

(8) Date of result (if you know): ~~10-02-2015~~ → *01-02-2015*

(c) If you filed any third petition, application, or motion, give the same information:

- (1) Name of court: *AA*
- (2) Docket or case number (if you know): *—*
- (3) Date of filing (if you know): *—*
- (4) Nature of the proceeding: *—*
- (5) Grounds raised: *—*

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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No

(2) Second petition: ☐ Yes ☒ No

(3) Third petition: ☐ Yes ☒ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not: *The issues raised are not of record on Evidentiary hearing at trial, prior to trial nor on PCRA stage. Extraordinary circumstances exist.*

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: *Ove process violation because I was denied*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Now retired judge Ralph C. warman failed to render a Decision on the first timely PCRA petition but the new judge Wagner is in error in alleging that he did so in 2007. I never received any Rule 907 Notice of intent to dismiss first PCRA and nothing is listed on the Court Docket. I never received any letter from my counsel either as notice in this case to date 10-29-2015.

(b) If you did not exhaust your state remedies on Ground One, explain why:

NA

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(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

Not direct appeal issue, arose on PCRA process.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: *PCRA*

Name and location of the court where the motion or petition was filed:

*Fayette County Court 61 East Main Street
Uniontown, Pa. 15401*

Docket or case number (if you know): *761 of 2002*

Date of the court's decision: *01-02-2015*

Result (attach a copy of the court's opinion or order, if available): *Dismissed as untimely.*

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Superior Court of Pennsylvania

Docket or case number (if you know): *613 WPA 2015*

Date of the court's decision: *10-2-2015*

Result (attach a copy of the court's opinion or order, if available): *affirmed*

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

GROUND TWO: *Ineffective Assistance of Counsel.*

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
PCRA counsel on my first timely petition failed to amend the PCRA and raise the issues thus causing a procedural default of those issues raised in the Amended petition I filed as a pro se litigant which was granted by the PCRA court in 2014. (see the PCRA filed in state court)

(b) If you did not exhaust your state remedies on Ground Two, explain why: *The issues I raised are not on record because I was denied an Evidentiary hearing to have issues heard at trial, prior to trial nor at PCRA stage. Extraordinary circumstances exist.*

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

Not appealable issue

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒

Yes

☐

No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: *PCRA*

Name and location of the court where the motion or petition was filed:

*Fayette County Court 61 East Main Street
 Uniontown Pa. 15401*

Docket or case number (if you know): *761 of 2002*

Date of the court's decision: *01-02-2015*

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Result (attach a copy of the court's opinion or order, if available):

Dismissed as untimely.

- (3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No
- (4) Did you appeal from the denial of your motion or petition? ☒ Yes ☐ No
- (5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☒ Yes ☐ No
- (6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Superior Court of Pennsylvania

Docket or case number (if you know): *613 WPA 2015*

Date of the court's decision: *10-02-2015*

Result (attach a copy of the court's opinion or order, if available): *affirmed*

- (7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

NA

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two *None*

GROUND THREE:

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

NA

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(b) If you did not exhaust your state remedies on Ground Three, explain why? NA

(c) **Direct Appeal of Ground Three:** NA

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:** NA

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state: NA

Type of motion or petition: NA

Name and location of the court where the motion or petition was filed: NA

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

(3) Did you receive a hearing on your motion or petition? NA

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know): NA

Date of the court's decision: NA

Result (attach a copy of the court's opinion or order, if available): NA

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

NA

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

NA

GROUND FOUR:

NA

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

NA

(b) If you did not exhaust your state remedies on Ground Four, explain why:

NA

(c) **Direct Appeal of Ground Four:**

NA

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

NA

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

NA

Type of motion or petition:

NA

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Name and location of the court where the motion or petition was filed: *NA*

Docket or case number (if you know): *NA*

Date of the court's decision: *NA*

Result (attach a copy of the court's opinion or order, if available): *NA*

(3) Did you receive a hearing on your motion or petition? *NA*

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition? *NA*

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state: *NA*

Name and location of the court where the appeal was filed: *NA*

Docket or case number (if you know): *NA*

Date of the court's decision: *NA*

Result (attach a copy of the court's opinion or order, if available): *NA*

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:
NA

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: *NA*

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13. Please answer these additional questions about the petition you are filing: *NA*

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☒ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: *NA*

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, ground or grounds have not been presented, and state your reasons for not presenting them: *NA*

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No *NA*
- If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. *NA*

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No *NA*
- If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the raised. *NA*

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: *Dianne H. Zerega*

(b) At arraignment and plea: *Dianne H. Zerega*

(c) At trial: *P.D. Murry Spegar*

(d) At sentencing: *P.D. Murry Spegar*

(e) On appeal: *Dianne H. Zerega*

(f) In any post-conviction proceeding: *Patrick C. McDaniels*

(g) On appeal from any ruling against you in a post-conviction proceeding: *None*

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

NA

(b) Give the date the other sentence was imposed: *NA*

(c) Give the length of the other sentence: *NA*

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain

the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.* *I was not given the required rule 907 notice by Judge Warman that my first timely PCR was dismissed in 2002. The error of the*

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PCRA Court deprived me of my
right to fair due process and
Equal protection of the Law under
the 5th, 6th and 14th ~~Constitution~~ Amendments
of State and the United States
Constitution. (see The PCRA
Filed in State Court)

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (I) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

Remand for Reassignment of Counsel and an Evidentiary hearing to have issues heard on record.

or any other relief to which petitioner may be entitled.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 1-19-2016 (month, date, year).

Executed (signed) on

1/19/2016

(date).

William Price

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.